

SECTION 20 - BOARD OF ZONING APPEALS

1. The Riley County Board of Zoning Appeals is hereby established in accordance with the provisions and requirements of KSA 1973 Supplement 19 -2926a for the purpose of hearing and determining appeals from decisions and actions taken by the County Zoning Officer, the hearing and passing upon applications for variances from the requirements of these regulations, the hearing and passing upon applications for exceptions to the provisions of these regulations and to hear and decide other matters regarding the application of these regulations which are referred to it and which are established as within the jurisdiction of the Board of Zoning Appeals.
2. The Board of Zoning Appeals shall fix a reasonable time for a public hearing on any matter referred to it. Notice of the time, place and subject of such hearings shall be published once in the official County newspaper at least 15 days prior to the date of the hearing. A copy of such notice shall be mailed to each party to the matter to be heard and to the County Planning Board. Minutes of the hearing shall be kept showing the evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question. A record of all official action taken by the Board shall be filed in the office of the County Clerk. In connection with the proceedings of a public hearing, the chairman of the Board of Zoning Appeals may administer oaths and compel the attendance of witnesses. A decision of the Board of Zoning Appeals becomes effective 15 days after the date of passage. Every decision by the Board shall be made in writing and such decision along with a full record of the findings of the Board, together with all documents pertaining thereto, shall be placed on file in the Office of the County Clerk. The Board shall notify the Board of County Commissioners and the County Planning Board of any action or decision of the Board.
3. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the County or any governmental agency or body affected by any decision of the officer administering the provisions of these regulations. Such appeals shall be taken to the Board by the filing of a notice of appeal in which the grounds for such appeals are specified. Upon receipt of such notice of appeal, the Board shall notify the administering officer from whom the appeal is taken and that officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appeals from was taken. The Board shall, in accordance with procedural policies established by the Board, hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made in the enforcement of these regulations.

In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken and may attach appropriate conditions and may issue or direct the issuance of a permit.

4. The Board of Zoning Appeals may also grant variances from the specific terms of these regulations where it is shown that such variance will not be contrary to the public interest

and where, because of special conditions, a literal enforcement of the regulations will result in unnecessary hardship in an individual case. Such variance shall not violate the spirit of these regulations nor permit any use not permitted by the regulations for any zoning district. Before granting a variance the Board must find that all of the following conditions are met:

- a. The variance requested arises from conditions which are unique to the property in question and which are not ordinarily found in the same zone or district and that such conditions are not created by an action of the owner or applicant.
- b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents.
- c. The strict application of the provisions of the zoning regulations from which the variance is requested will constitute unnecessary hardship upon the property owner or applicant.
- d. The variance requested will not adversely affect the public health, safety and welfare.
- e. The granting of the variance will not be opposed to the general spirit and intent of the regulations.

Variances may be granted only:

- a. To reduce the specified minimum lot depth and/or lot width not more than 20%.
- b. To reduce the minimum lot area for a single family or two-family dwelling not more than 20%; except in no case shall any lot area be less than that required by the County Sanitary Code.
- c. To reduce the minimum lot area per dwelling unit for multiple family dwellings not more than an amount which will permit the addition of one more dwelling unit to the number permitted by a strict application of the minimum lot area requirement; except in no case shall any lot area be less than that required by the County Sanitary Code.
- d. To increase the maximum building height not more than 25%.
- e. To reduce the minimum yard requirements.
- f. To reduce the size of tract permitted to be rezoned to Zone A-3; except in no case shall the size of such tract be less than one acre.

- g. To reduce minimum off -street parking requirements.
- h. To permit the reconstruction or repair of and the continued nonconforming use of a structure that has been damaged by up to 75% of its structural value; provided that the use of the structure is not changed nor its size increased.
- i. To permit the reconstruction of a damaged or destroyed nonconforming structure in a Floodplain District provided that such structure is located in a developed area; and provided that the land area included in the granting of such variance does not exceed one half acre; and provided that the use of the structure is not changed nor its floor area increased; and further provided that the degree or intensity of nonconformity is not increased.
- j. To modify requirements relating to signs.

Application for the granting of a variance by the Board of Zoning Appeals shall be in the form of a letter stating the legal description of the land to be considered, the nature and details of the requested variance and the property owner's reasons for requesting the variance. Such letter shall be delivered to the County Zoning Officer who shall forthwith notify the chairman of the Board of Zoning Appeals of the receipt of the application. The Chairman shall call for a hearing, in the manner prescribed in paragraph 2 above, not more than 30 days after receipt of such notice.

- 5. The Board of Zoning Appeals may also grant exceptions to the provisions of the zoning regulations in those instances where the Board is specifically authorized to grant such exceptions and only under the terms of such regulation. In no event shall exceptions to the provisions of these regulations be granted where the use or exception contemplated is not specifically listed as a Conditional Use in such regulations. Further, under no condition shall the Board of Zoning Appeals have the power to grant an exception where conditions of the exception, as established in the zoning resolution by the Board of County Commissioners, are not found to be present. Application for the granting of an exception shall be in the same form and manner as that for a variance, as specified above.
- 6. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may, within 15 days after such order or determination, bring action in the District Court of the County to determine the reasonableness of any such order or determination.
- 7. A fee for the filing of an application for matter to be brought before the Board of Zoning Appeals shall be established by the Board of County Commissioners and such fee shall be paid by the applicant at the time of filing of the application.